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Labor Relations in 1939 in Retrospect

AS THE END of each year is reached there is always an inclination to review events that have occurred and, in the more objective mood of retrospection, to attempt to appraise their real significance. This has been particularly true in the field of labor relations because during the last several years important happenings have followed each other with such frequency, and, at the time of occurrence, each has seemed so momentous that it has been necessary for time to elapse before their relative importance and long-time significance could be properly weighed. While from surface indications the year just ended may have seemed quieter and less eventful than some that preceded, it witnessed developments in the field of labor relations that seem particularly noteworthy. It is the purpose here to review these briefly, since their recapitulation may suggest significant aspects that were not apparent at the time of their occurrence and may indicate underlying trends. First, a brief summary of the more significant happenings during the year:

January 18—First bill to repeal or amend Wagner Act introduced in Congress.

February 27—Sit-down strikes outlawed by United States Supreme Court in Fansteel case.

March 7—At request of President, A.F.L. and C.I.O. negotiating committees convene to try to find basis for reuniting labor movement.

April 3—Union of hosiery workers assessed $711,932 damages in Apex Hosiery Company case for injury to company property during sit-down strike.

April 5—A.F.L. and C.I.O. representatives, meeting to find a basis for reunion, adjourn *sine die.*

April 11—Hearings on amending Wagner Act open before Senate Labor Committee.

May 11—Appalachian bituminous coal strike ends with granting of union shop.

June 21—N.L.R.B. announces ruling allowing employer to ask for election in his plant when two or more unions are involved.

July 14—N.L.R.B. announces discontinuation of certification of collective bargaining representatives by examination of union membership cards.

July 20—House of Representatives votes N.L.R.B. inquiry.

August 3—C.I.O. opens organizing campaign in building industry in which A.F.L. is strongly entrenched.

October 3, 11—President renews peace plea to A.F.L. and C.I.O. assembled in annual conventions.

October 7—A.F.L. announces paid-up membership as 4,006,354 a gain of 383,267 during year.

October 9—Slow-down tactics cause suspension of operation in Chrysler Corporation plants.

October 24—Wage-Hour Act completes first year. Minimum wage goes to 30 cents and maximum hours to 42.

November 4—United States Department of Labor reports an estimated 3 million of 8 million union members in the United States are covered by closed-shop agreements.

November 19—Organized labor warned by Assistant Attorney General that certain types of union activity violate the Sherman Act and that prosecution will follow commission of such acts.

November 21—Issue of foremen organization in unions is raised in Chrysler strike negotiations.

November 28—Agreement reached between management and union after Chrysler strike had lasted 54 days.

November 28—United States Circuit Court of Appeals annuls verdict of $711,932 against Apex Hosiery Company strikers on ground that union had not interfered with interstate commerce.

November 28—Sixth Court of Appeals in refusing to enforce N.L.R.B. order in Empire Furniture Company case criticizes Board's use of evidence.

December 11—Public hearings of Congressional Committee investigating N.L.R.B. open in Washington.

December 29—Judge Biddle of Third Federal Circuit Court of Appeals, formerly chairman of earlier Labor Relations Board holds that independent unions or "company unions" are as legal as national labor organizations so long as they are not under employer domination.

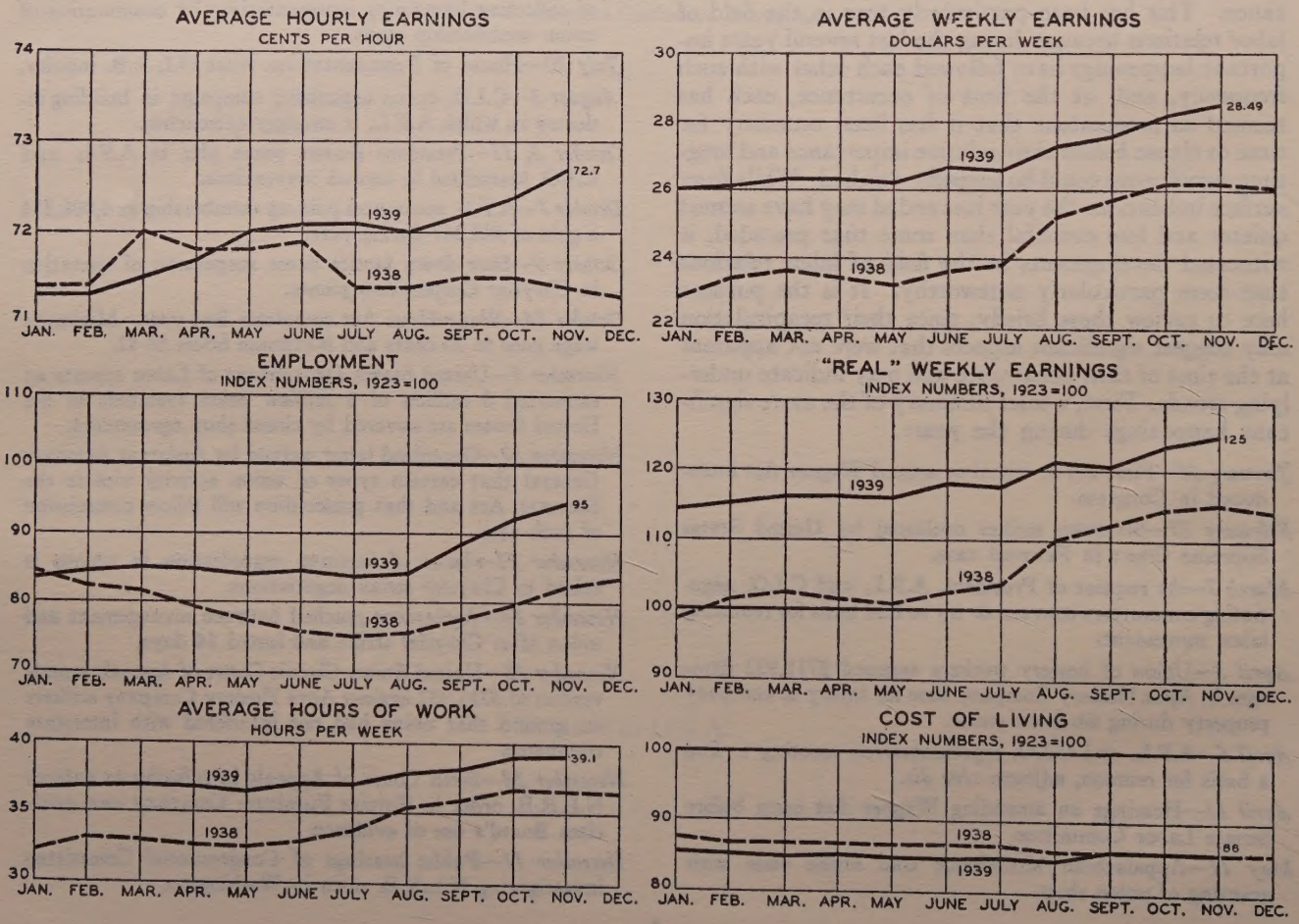
Conditions Affecting Wages and Employment

Economic conditions affecting labor developed along lines highly favorable to the wage earner in 1939. Even in the early part of the year business activity was well above the corresponding period in 1938. As the second half of the year opened a natural expansion of business got under way, and this was considerably accelerated when the beginning of war in Europe stimulated active buying in this country as a protection against anticipated price advances. Data drawn from the regular Conference Board statistical studies and presented on the accompanying chart indicate a general improvement in the wage earner's status during the year. From January to November, 1939, the latest month for which figures are available, average hourly earnings in industry increased only slightly from 71.6 cents to 73.0 cents. Weekly earnings, however, rose from $26.08 to $28.56, largely as a result of the lengthening of the average work week from 36.6 to 39.1 hours. Employment held quite steady for two-thirds of the year and then rose rapidly under the stimulus of increased activity, so that in November, 1939 the index of employment stood at 94.7 as compared with 83.5 in January. Conference Board estimates reflected a substantial decrease in unemployment from 10,105,000 in January to about 8,500,000 in November, 1939.

The cost of living, meanwhile, remained without significant change. The fact that this situation continued during the latter part of the year was particularly gratifying because some expected that the marked increase in manufacturing activity and the war in Europe might precipitate a general rise in retail prices. The Conference Board's index of the cost of living stood

WAGES, EMPLOYMENT, AND THE COST OF LIVING, 1938–1939

Source: The Conference Board



at 85.4 in January, 1939, and at 84.5 in August. By November it had risen only to 85.7. Apparently the flurry in sugar prices in September was not, as many feared, the beginning of a general tendency toward retail price inflation. As a result of the small rise in the cost of living and the higher weekly wages, "real" weekly earnings, or the purchasing power of money earnings, increased 9.4% from January to November, 1939. Thus, with a sharp increase in the scale of business operation, private enterprise has made a substantial dent in the number of unemployed, as well as providing higher earnings for those on its payrolls, which, with the nearly stationary cost of living, has meant a genuine and healthy increase in purchasing power.

Labor Disputes

In terms of the number of recorded labor disputes 1939 was more peaceful than 1938. According to figures of the United States Department of Labor, a total of 1789 strikes was initiated during the first ten months of 1939, as compared with 2388 in the same period of 1938. In terms of severity, however, the situation was considerably worse in 1939. Workers involved in strikes numbered 1,084,630 in the first ten months of 1939, as against 607,432 in the same period of 1938, while the idleness caused by these strikes amounted to 15,465,276 man days and 8,077,810 man days respectively. Figures by months for 1938 and through October, 1939, are given in Table 1.

Table 1: Industrial Disputes, 1938 and 1939
Source: United States Bureau of Labor Statistics

	Data for Strikes Beginning in Month		
	Number of Strikes	Workers Involved in Strikes	Man Days Idle During Month
1938			
January	168	35,329	473,289
February	198	53,175	514,111
March	274	56,759	767,856
April	281	78,666	838,158
May	300	83,029	1,174,052
June	219	52,801	871,002
July	208	50,193	776,237
August	262	48,378	830,987
September	222	96,399	989,916
October	256	52,703	842,202
November	207	43,128	557,903
December	177	37,816	512,560
1939			
January	178	49,963	513,150
February	179	66,853	536,010
March	196	41,824	600,527
April	226	391,129	4,876,744
May	221	92,603	3,515,731
June	203	57,633	936,335
July	188	170,186	1,137,025
August	128	74,439	1,049,754
September[1]	145	35,000	800,000
October[1]	125	105,000	1,500,000

[1]Estimates.

The greater severity of labor disputes in 1939 was due, in the main, to two situations, in both of which questions of union power were more prominent than wages or working conditions. In the first of these, involving the Eastern bituminous coal mining industry, the normal issues in collective bargaining were soon disposed of in the negotiations between the operators and the union, with an agreement to continue existing wage scales and work regulations, thus clearing the decks for the main controversy over the closed, or union shop, and the penalty clause, whereby union members who strike in violation of terms of the contract are fined a specified amount for each day away from work. The existing contract between the Appalachian bituminous operators and the United Mine Workers of America expired on April 1, and on April 3 a strike was called which was said to involve 320,000 employees.

For weeks both sides refused to recede from the positions they had taken. Negotiations continued while large users of bituminous coal became more and more uneasy over their depleted fuel reserves. The union negotiators insisted on inclusion of a union-shop clause in the new contracts, which would require all employees of the companies to become members of the union as a condition of employment. This would give the United Mine Workers of America (C.I.O.) complete control over labor in the sections of the bituminous coal industry covered in the negotiations, which account for about 75% of the total output in the United States. The Progressive Mine Workers of America (A.F.L.) had apparently made sufficient headway in its organizing campaign to become something of a threat to the U.M.W. and, consequently, the leaders of the latter union intended to eliminate its competition by closing employment opportunity to those who retained membership in it. The operators insisted on retention of the penalty clause, which the union leaders wished to eliminate. The controversy was finally settled on May 11 when a majority of the operators accepted the union shop. The penalty clause was to be retained in contracts with companies in which it had formerly been in force, but was not to be added to other contracts.

The second serious labor situation was concerned with the effort of the United Automobile Workers of America (C.I.O.) to gain complete control over labor in the automobile industry. A strike of tool and die makers in plants of General Motors, beginning July 5 and lasting until August 3, considerably delayed work on new models, and although only about 7,000 employees were directly concerned in the controversy, about 100,000 were eventually forced into idleness. Terms of settlement were concerned largely with job classification, rates and overtime provisions affecting tool, die and maintenance workers, and left the main issue of the company's dealings with shop committees of A.F.L. or C.I.O. factions of the union for later determination. This was necessary in view of the fact that the com-

pany had pending a formal request to the National Labor Relations Board for elections to determine which faction was supported by a majority of the workers in certain of its plants.

The General Motors strike was followed by one affecting three companies making automotive bearings. While several demands were made by the union, the important one was for the union shop. On this point the companies refused to yield. The final settlement included the rather vague statement, to be incorporated in the contracts, that "the company for the purpose of this agreement agrees to permit the union to maintain its present status." The union claimed this as a victory for the union shop, while the companies maintained that it meant no more than that they would continue to comply with the Wagner Act as they had always done.

The Chrysler strike, which began early in October, brought to public attention the device known as the "slow-down" which may take various forms, but the purpose of which is to so reduce volume of output as to make operation of a department or plant difficult, if not impossible, and thus provide a form of compulsion to reinforce demands on the management. It possesses advantages over the strike or sit-down in that participants do not surrender their jobs nor do they take possession of company property. They do, however, rebel against management authority, intentionally deliver less in return for their wages than is customary, and deliberately attempt to paralyze operations affected by the jobs.

It is difficult to isolate and set down exact causes and issues in important strikes because the real issues are often concealed behind general statements given out for public consumption and because some issues may be dropped and others be introduced during the progress of the dispute. In the Chrysler negotiations the reinstatement of certain employees accused of slow-down tactics, and a voice in establishing work speeds figured prominently in early demands, but later the closed-, or union-shop question came to the front, and finally the matter of the organization of foremen added further complications. The final agreement terminating the strike was reached late in November and included an increase of 3 cents an hour for hourly paid employees, prohibition of sit-down or slow-down tactics, exclusion of foremen from bargaining units, and an understanding that production speeds are a prerogative of management, and that disputes over speeds should be taken up as grievances. The union shop was not granted.

The prominence of the union-shop issue in the major labor disputes of the year naturally stimulates conjecture as to the reason why it is being demanded so much more insistently than in the past. One explanation might be that new unions are becoming more firmly established and feel that the time is ripe to consolidate their positions and entrench themselves firmly. Another explanation might be that the early enthusiasm for union membership on the part of many recruits has cooled under the necessity of paying dues regularly and that in order to check growing defections from the ranks it is considered essential to make employment contingent on being a union member in good standing.

During 1939 important state legislation affecting the conduct of labor controversies was enacted. The general tendency was to define more sharply debatable provisions of earlier laws, to place reasonable restraints on over-hasty action in labor disputes, and to lay down certain rules to regulate their conduct. Important industrial states which enacted new labor relations statutes included Wisconsin, Pennsylvania and Michigan.

Status of Organized Labor

The year brought no apparent narrowing of the chasm between the A.F.L. and the C.I.O. The President intervened in the struggle and asked the two federations to explore the possibilities of reunion. Representatives of each were appointed and met in conferences, but after what appeared to be a half-hearted effort to find a basis for getting together these meetings were discontinued. Appeals by the President to the annual conventions of the two bodies in October were equally unproductive of results. Fundamental differences in matters of jurisdiction, in terms of reunion, and in the status of individual leaders in the event of amalgamation remained an obstacle to the settlement of the controversy.

It is impossible to know what changes in labor union membership occurred during the year. In accordance with its annual custom, the American Federation of Labor announced that at the close of its fiscal year, August 31, 1939, the paid-up membership of its affiliated unions was 4,006,354, which represented a gain in membership of 383,267 for the year, and of 1,566,299 for the last three years. No corresponding figures have been issued by the Congress of Industrial Organizations, and, therefore, the combined paid-up membership of the two federations can be only a matter of speculation.

Two events occurred during the year that may have far-reaching effects on the labor movment. On April 3 in a Federal District Court in Philadelphia a jury of eight women and four men found Branch 1 of the American Federation of Hosiery Workers (C.I.O.) guilty of causing property damage and loss of profits to the Apex Hosiery Mill amounting to $237,310 during a sit-down strike in 1937. Since it was held that the Sherman law had been violated, the damages were automatically trebled, causing a verdict of $711,932 against the union. The decision was immediately appealed by the union. Organized labor insisted that labor was exempt from the provisions of the Sherman Act. On November 27 the Circuit Court of Appeals in Philadelphia set aside the verdict. It held that liability under

the Anti-Trust laws required proof not only that unlawful acts were committed but that there was a combination or conspiracy to restrain interstate commerce. In addition to lack of intent, in this case, to restrain commerce, the Court held that in fact commerce had not been restrained to an "unreasonable degree" by the union's actions. Its decision did not, however, exonerate the union of responsibility for illegal acts but held that the Anti-Trust laws were not violated by these acts.

On November 19 Assistant Attorney General Arnold issued a warning to organized labor that the Department of Justice would proceed against unions that use the legal right of association in an illegal way. Following indictments of building trades unions in several cities, this statement was very disturbing to labor leaders. Mr. Arnold gave examples of the type of "unreasonable restraints" by unions that would be prosecuted, such as preventing the use of cheaper materials and more efficient methods, compelling the hiring of useless and unnecessary labor, enforcing systems of graft and extortion, enforcing illegally fixed prices, and destroying established and legitimate systems of collective bargaining. On December 2 Attorney General Murphy reinforced the stand of Mr. Arnold by stating in a reply to a protest from Mr. William Green that it was the practice of the Department of Justice in the enforcement of criminal statutes to follow the construction placed on such statutes by the Supreme Court and that in this instance the Department was continuing to follow this practice. These events may foreshadow a method of government regulation of labor union practices different from and probably more effective than the forms usually advocated by those who favor such regulation.

The Wagner Act and the N.L.R.B.

From a labor relations viewpoint the year 1939 is chiefly significant as a year of substantial progress toward a more rational and balanced attitude toward the whole question of employer-employee relations, and, in particular, toward the government's responsibilities in regard to them. At one time labor relations were a matter to be decided entirely by the employer and his employees, individually or collectively. More recently labor relations have appeared to be controlled by labor organizations and the government. Now a compromise in the form of a more broadly equitable approach to the problem seems to be in the making. It quite naturally revolves around the question of the constructive value of the National Labor Relations Act in its present form, and the manner in which the National Labor Relations Board has administered the Act.

The year was not three weeks old when the first bill to repeal the Wagner Act and substitute a reconstructed measure had been introduced in Congress. This was symptomatic of a growing feeling in Congress and in the country as a whole that the avowed purpose of the Wagner Act—"to diminish the causes of labor disputes"—was not being accomplished. Other bills were introduced in House and Senate aimed at the correction of what their authors believed to be weaknesses in the existing act or miscarriages of the intent of Congress. In April, public hearings on the proposed bills were begun and continued for many weeks, while friend and foe of the act in turn attacked and defended its provisions and administration. Significant of the change in attitude toward the Act was the fact that one of its most outspoken critics was the A.F.L., although at the time of its enactment the Wagner Act had been hailed as "Labor's Magna Carta." The C.I.O. continued to defend it and to resist amendment.

The hearings apparently convinced the Board that there was serious dissatisfaction with its procedures and with what was considered the arbitrariness of some of its rulings and decisions. Apparently as a result of criticisms of the one-sidedness of the act, the Board announced, while the hearings were still in progress, that it would permit an employer to petition for an election in his plant to determine the collective bargaining agency of his employees when two or more unions were involved. Moreover, in a number of decisions craft unions were recognized as proper collective bargaining units, although previously they had seemed to be in disfavor when in competition with industrial unions.

Congress did not amend the act, but in the closing days of the session a feeling of dissatisfaction with conditions surrounding its administration was given expression by the passage of a resolution in the House creating a Congressional Committee to investigate the operations of the National Labor Relations Board. Meanwhile polls of public opinion indicated the growing dissatisfaction with the manner in which control over labor relations was being exercised.

When the Wagner Act became law there was considerable comment on the breadth of discretion given to the Board by Section 9 (b), and criticism that this amounted to life and death power over a labor organization. The Section reads as follows:

> The Board shall decide in each case whether, in order to insure to employees the full benefit of their rights to self-organization and to collective bargaining, and otherwise to effectuate the policies of this Act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof.

It was not generally realized that the very magnitude of this power would act as a boomerang and involve the Board in constant controversy, no matter what decision it might make in any particular case, but 1939 provided ample evidence that such would be the result. Whether by coincidence or natural leaning of members of the Board, its decisions for some time seemed to favor the

industrial form of organization at the expense of craft unions. This naturally incensed the A.F.L., which is composed largely of craft unions, and these decisions were instrumental in arousing its opposition to the administration of the Wagner Act. For a time following the outspoken criticism by the A.F.L., craft unions appeared to be more frequently upheld and the C.I.O. in turn voiced its dissatisfaction.

Following the appointment of Dr. William Leiserson to the Labor Board there were a series of disagreements within the Board itself, resulting in divided opinions, often with different dissenters. An outstanding case was that of the Pittsburgh Plate Glass Company. The C.I.O. union admittedly represented a majority of the employees in five plants of this company, but not in the sixth. The Board held, however, that the entire six plants constituted an "appropriate bargaining unit" and that by refusing to cover the sixth plant by a union contract the company had committed an unfair labor practice. In his dissenting opinion, Dr. Leiserson held that the ruling of the Board in effect deprived some 1,600 employees in the sixth plant of the opportunity to select representatives of their own choosing, and he also made the significant statement that "this does not seem to me essentially different from the denial of free choice of representatives in cases where employers impose labor organizations on their employees."

During the year the courts played an important part in clearing up uncertainties and sharply defining the issues involved. On February 27 the United States Supreme Court in the case of the Fansteel Metallurgical Corporation outlawed the sit-down strike when it held that law violation and seizure of company property were valid grounds for discharge of employees, even if the employer was guilty of unfair labor practices as defined in the law. Some decisions of lower courts seemed to challenge the manner of use of its powers by the Labor Relations Board, but in the main the policy of the courts seemed to be to refrain from disturbing Board decisions and orders so long as there was any tenable basis for them, while directly or indirectly implying that if injustice was done the remedy lay with Congress rather than with the courts. This attitude was particularly evident in decisions by the United States Supreme Court handed down on January 2, 1940, holding that certification by the Labor Board of a union in a unit which it had decided was appropriate could not be reviewed by the courts, and that the form of ballots and inclusion or exclusion of names of labor organizations were entirely within the Board's discretion under the Wagner Act. The court observed that "it seems to be thought that the failure to provide for a court review is productive of peculiar hardships which were perhaps not foreseen in cases where the interests of rival unions are affected. But these are arguments to be addressed to Congress and not to the courts."

On the other hand, two decisions of appellate courts in particular indicated a tendency to subject decisions of the Board to reasonable tests of legal justification. Rarely has an administrative board been subjected to such scathing verbal castigation as was administered to the Labor Board by the United States Circuit Court of Appeals for the Sixth Circuit in the case of the Empire Furniture Corporation. Appearing in the decision, which refused enforcement of a Board order, are such comments as: "By building one inference upon another, and by the simple expedient of rejecting controverting evidence even though unimpeached, the Board arrived at its finding"; and again in conclusion: "The petition of the Board for enforcement of its order must be denied because its findings of unfair labor practices are unsupported by substantial evidence. Sensible of the great social purpose of the National Labor Relations Act courts have gone far to uphold rulings of the administrative agency charged with its enforcement, doubtless in the belief that overzealousness must in time yield to expertness in weighing evidence, and that time and responsibility must develop a judicial approach to disputed issues in a tribunal which, though administrative, exercises to such large extent the high judicial function. It may not be amiss—indeed, it may be in the higher public interest to observe that the beneficent purposes of the act will not be effectuated by decisions such as that presently reviewed."

Another decision of considerable significance was that of the Third Circuit Court of Appeals reviewing enforcement of a Board order to disestablish an independent or "company" union in the Swank Products Company. Particular interest attached to this decision because it was written by Judge Francis Biddle, who formerly had been chairman of the Labor Relations Board. He maintained in his decision that nothing in the Wagner Act prohibited a plant or so-called "company" union except where such an organization is in some way influenced or controlled by the employer and that "the evidence in this case shows, we think, a genuine, if rare, attempt on the part of the employees to form their own intramural union, to prevent what they considered might be a less advantageous external organization bringing them to the lower level of competing shop conditions."

On December 11 the Congressional Committee investigating the Labor Relations Board held the first in a series of public hearings. Even before recessing for the holidays the Committee had made public evidence of a character that tended to confirm the suspicions of many that there had been practices in connection with the Board's administrative procedure that were open to serious question from the standpoint of non-partisan adjudication of the act, and that unfortunate mistakes had been made in the selection of some of its representatives who were in a position to wield great power. To

those who had followed some of the hearings before the Board's trial examiners, and particularly to company executives who had been involved in them, there appeared something of poetic justice in the picture of representatives of the Board pleading with the Committee Counsel for an opportunity to present their side of the case in connection with apparently damaging evidence. But in this instance they were assured that they would be given such an opportunity.

With full recognition of the fact that in an investigation of this kind only the most damaging evidence is brought out, and that the subject of investigation is made to appear in its worst possible light, still it has been shown clearly that there is much about both the Wagner Act and the policies of the Labor Relations Board in administering it that is anything but conducive to the prevention of labor discord and the promotion of "the flow of commerce by removing certain recognized sources of industrial strife and unrest, by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions, and by restoring equality of bargaining power between employers and employees."

Conclusion

In retrospect, many happenings in the field of labor relations in 1939 that at the time of occurrence may have seemed unrelated to each other or to any general trend now seem to be connected parts of a changing picture. Included in this picture are: increasing pressure for the closed or union shop; increasing state regulation of conditions surrounding industrial disputes; indications that regulation of certain union practices and of cases of employer–union collusion is coming through Department of Justice prosecution for violation of anti-trust laws; evidence that juries and courts will not condone destruction of company property caused by violence in labor controversies; and indications that there is serious and widespread dissatisfaction with the Wagner Act and the manner in which it has been administered, and that either this year or next the Act will receive careful reconsideration with a view to devising a more equitable and constructive procedure for protecting the rights of workers.

Certainly definite progress toward a sounder basis for employer–employee relations was recorded during 1939, in particular, with respect to the parts to be played in them by labor organizations and government agencies. There remains a long distance to be traveled before something like stability and general agreement on the rules of the game are reached, but the year just closed, more than any that preceded it, contributed to forward progress. Particularly significant were evidences of effective public interest in the situation and concern on the part of the courts with regard to methods employed allegedly for the purpose of removing causes of industrial unrest. This resulted in an increasingly universal demand for less propaganda and more facts, less dealing in revenge and retribution and more concern for dealing out unbiased justice, less use of statutory powers for advancing the ideologies of individuals and more insistence on promoting the cause of equitable employer–employee relationships, less attempt to reform the world overnight and more slow but constructive building for a better industrial society.

Perhaps the most serious error in the philosophy of those who have attempted to remake the pattern of industrial relations in this country, and in the expedients they have employed to implement this philosophy, is their failure to realize that when dealing with human nature and human reactions greatest speed can be made by going slowly. When one sets out doggedly to impose on others his personal conception of ideal human and industrial relations, particularly when in doing so he is clothed by law with great power, he is likely to set up in the minds of others a resistance which is none the less strong even though for the time being, at least, it can find no effective outlet. If one who i believed to hold opposing views is gagged, he can easily be out-argued, and if his hands are tied he can offer little resistance, but such tactics are hardly calculated to convince him of the justice or merit of the cause represented by those who have shackled him. This is particularly true when their actions, after having eliminated any possibility of opposition from him, are high-handed and arbitrary. The only resource that remains to him is a kind of passive resistance which may, however, be very effective in frustrating the attainment of their goal.

The reformer is traditionally impatient of delay in reaching his objectives. He overlooks or disregards the fact that it takes time for people to become adjusted to a new attitude toward an old problem and that lasting success cannot be achieved by ruthlessly alienating those upon whose sincere cooperation such success must eventually depend. Legislation may force outward observance of new techniques and practices, but willing acceptance of them must await demonstration of their workability and their fairness to all concerned. When, moreover, enforcement of the new techniques is given over to persons actuated more by crusading zeal, made the more dangerous by the broad powers with which they have been entrusted, than by desire to be guided by considerations of justice and equity for all, a clashing of wills and serious dislocation of normal relationships inevitably result. Good feeling and willingness to cooperate can never be built upon such a foundation.

Recent years have witnessed a monumental effort of a relatively small group of people to impose on American industry and business a particular pattern of industrial relations. The employer and the worker who might be considered as having a rather large interest in the mat-

ter have appeared to be pawns rather than leading actors in the contest that has taken place. The public has been the umpire, and the public is making it increasingly clear that while it has no sympathy with the exploitation of labor by employers, neither is it in sympathy with the exploitation of labor by other groups. It is also steadily demanding the establishment of a system of industrial relations and a form of their regulation that are responsive to actual needs. And there are signs that the public is coming more and more to measure the success of an industrial relations policy in terms of its accomplishments in bringing about equitable labor relations and not in terms of its advancement of the theories or ambitions of a few individuals. The year 1939 contributed much in the way of demonstrating the great need for reconsideration of government's proper sphere in the regulation of labor relations, and in pointing to the obvious ways in which the situation can be improved.

HAROLD F. BROWNE
Management Research Division

Questions and Answers

An important function of the Management Research Division is to focus the information gathered in its many studies on particular problems confronting associated companies. The Division's services are constantly at the disposal of executives in these companies. Inquiries are, of course, answered promptly by mail, but some questions and answers believed to be of general interest are reproduced from time to time in this section of the MANAGEMENT RECORD.

OFF-TIME APPRENTICE TRAINING CLASSES

Question: Our company has an apprentice training program which includes attendance in classes that are conducted off company time. Would this be considered a violation of the Fair Labor Standards Act?

Answer: A revision of Paragraph 15 of *Interpretative Bulletin No. 13* includes the following statement:

> In view of the special circumstances involved in bona fide apprenticeship training, it is our opinion that time spent in related supplemental instruction by a bona fide apprentice—one who is employed under a written apprenticeship agreement which meets the standards of the Federal Committee on Apprenticeships or which conforms substantially with such standards—need not be considered hours worked if the written apprenticeship agreement so provides. Bona fide apprenticeship programs involve considerations of public policy not present in the case of the ordinary employer–employee relationship. They are intended to provide the community with an adequate number of journeymen who have had a combination of practical experience and theoretical instruction and thus to enhance employability. The comprehensive program of practical training covering an entire trade is supplemented by theoretical instruction designed to give the apprentice a better understanding of the mechanical activities which he will be called upon to perform in his trade. It should be noted, however, that related supplemental instruction does not include time spent by an apprentice in performing his regular duties or in any active work. Such time should be considered hours worked under all circumstances.

NOON-TIME MOVIES FOR EMPLOYEES

Question: We have heard that some companies are giving their employees an opportunity to see movies during the noon hour. Would you tell us how this is handled and what the results seem to be?

Answer: One company uses films that are supplied free by the automobile company that produces them. These are animated cartoons and moving picture shorts that, while created for advertising purposes, were primarily designed to be entertaining. They are shown in the company restaurant during the noon hour whenever new films are made available. The reception of the program indicates that the entertainment value is high.

Another company shows movies daily from a quarter past twelve to one o'clock in the company auditorium that seats 2,200, and is filled every day. The employees bring their own lunches or buy them at the door and eat during the movies. Mondays and Fridays are given over to shorts, news reels and two reel films. One feature film is shown each week in three sections on Tuesday, Wednesday and Thursday. The company tries to select the fifty best pictures of the year, signs contracts direct with the film distributors and shows them after they have appeared in the first run houses in the city. Programs are announced a week in advance and there is, of course, no admission charge. The group goes back to work looking rested and refreshed after a noon hour which gave them the relaxation of a complete change of thought.

A CORRECTION

Appendix D of the study, "Prevailing Practices Regarding Corporation Directors," published in September of last year, as a Supplement to the *Management Record*, contains a reference to legal restrictions on the size of bank boards. The reference to New York provisions should read as follows: A savings bank in New York may have no fewer than nine nor more than twenty members, except in the case of a merger, when the board may include as many as thirty members. In the event of a merger, the board must be reduced to a maximum of twenty members by failure to fill vacancies as they occur. The board of a trust company chartered in New York must have at least five but no more than fifteen members, except that any trust company with a capital of two million dollars or more may have not less than five nor more than twenty, and any trust company with a capital of five million dollars or more may have not less than five nor more than twenty-five directors.

Notes on Personnel Administration

Experience with the General Motors Corporation's Income Security Plan

The General Motors Corporation established its Income Security Plan and Layoff Benefit Plan for the year 1939 in order to assist its employees by wage advances in bad periods of unemployment or lay-off and thus provide a large proportion of its employees with a greater degree of economic security than has heretofore been available in the automobile industry. The plans are simple.[1] Whenever an eligible employee's weekly income falls below a certain proportion of a full week's pay, the corporation offers to advance him the difference, up to a specified maximum. This advance is repayable only through an opportunity to work and does not bear interest. It is cancelled in the event of the employee's death.

Under these plans, over 34,000 employees have received wage advances in excess of $1,500,000 during 1939. Approximately 90% of these repayment-in-work loans have already been liquidated. The corporation has decided to continue these plans for the year 1940, but in the light of the past year's experience certain modifications in their provisions have been considered desirable.

The more important changes in the 1940 plans are as follows:

1. A time limit has been placed upon the repayment of work loans. If any advance remains unearned or unrepaid at the expiration of three years from the date when the loan was made, it is automatically cancelled and the employee is relieved of any obligation to work out such unpaid advances.

2. Employees past their sixty-fourth birthday are ineligible for the 1940 plans since they may, upon retirement, participate in the old-age benefits under the Federal Social Security Act.

3. The maximum amount of advances outstanding as unpaid or unearned for any employee under the Income Security Plan at any one time, including unpaid loans under the 1939 plans, has been limited to 360 hours' earnings at the employee's most recent rate of pay.

A New Hospitalization Plan

The Employees' Relief and Benefit Association of the Weirton Steel Company has sponsored a new hospitalization plan. Hospital benefits are provided by a non-profit association and payments to the plan are separate and distinct from the parent organization. Should the association show a profit in the future, resulting in an unduly large surplus accumulation, dividends will be distributed to the members.

All employees are eligible to join, but must take out membership in the class to which they belong. Membership is divided into three classes, on the basis of marital status, with a different rate of dues and benefits for each classification, as follows:

Class	*Dues*
A. Single employees	$ .50 per month
B. Man and wife	$1.00 per month
C. Man, wife and children (Irrespective of number of children)	$1.50 per month

The benefits to which each class of membership is entitled follow:

Class	*Hospital Benefits*
A	31 days' hospital care in 1 year at rate of not more than $3.50 per day. Additional $25.00 to cover miscellaneous hospital expense such as operating room and X-ray, but not doctor's bills.
B	Man and wife, each entitled to benefits same as above.
C	Man and wife each entitled to benefits same as above. In the case of children, 31 days of hospital care in 1 year at rate of $3.50 per day, for all children combined, the hospital days to be cumulative until a total of 31 days is reached. Also a total of $25.00 for miscellaneous hospital charges, whether paid for one or more children.

The plan also applies to maternity cases after the member has contributed for a period of not less than ten months.

Research for Industrial Health

Through the work and accomplishments of the Air Hygiene Foundation, 250 corporations affiliated with this organization during 1938–1939 contributed to the welfare of their approximately 1,000,000 employees.

Air Hygiene Foundation is a non-profit science organization with headquarters and a multiple fellowship at Mellon Institute. It represents a collective effort by employers in behalf of employee health. The Foundation, in addition to fundamental research in industrial health, provides members with practical plant applications to prevent industrial illness and to foster industrial hygiene. Plant surveys and special investigations

[1] Texts of plans given in Conference Board Information Service, Domestic Affairs Series, Memorandum Number 62, p. 10.

are being made almost continually for member companies through the foundation's laboratory in the institute. The foundation serves as a central agent for the collection, correlation, and dissemination of data on industrial health subjects.

Each month a digest is issued covering the latest pertinent literature on industrial hygiene, and approximately 1,000 separate articles were abstracted during the past year. The bulletins, prepared by the preventive engineering committee headed by Philip Drinker of the Harvard School of Public Health, cover a wide range of everyday plant problems, such as: "Determination of Benzol Vapor in the Atmosphere," "Use and Care of Respirators," "Determination of Chlorinated Hydrocarbon Vapors," "Design of Exhaust Hoods," "Design of Duct Work for Exhaust Systems," "Determination of Lead in the Air," "Identification of Industrial Dusts," and "Routine Sampling for Control of Atmospheric Impurities."

An exhaustive legal study covering "Compensation Legislation—A Critical Review," was completed early this year, and under research grants from the foundation, scientific investigations progressed at Mellon Institute, Harvard University, the University of Pennsylvania, and The Saranac Laboratory.

In addition, two graduate fellowships were established at Harvard University to train men in industrial hygiene and to help build up a skilled personnel to meet the increasing demand for specialists from industry and government.

Building Real Leaders for the Future

Men in positions of leadership are often highly proficient along technical lines but lacking in knowledge of how to deal with their subordinates in a manner to build morale and secure a maximum of willing cooperation. The importance of correcting this shortcoming has repeatedly been stressed in recent years and technical institutions have introduced special courses to meet this need. But how about the man who goes to work after completing high school and because of native ability gives promise of qualifying for promotion to a supervisory position and perhaps eventually to executive rank?

Eureka College at Eureka, Illinois, is preparing to provide an answer for this problem by offering a specially planned training course for prospective foremen. Recognizing the vital importance of the supervisor as the immediate link between management and working force, and the far-reaching effects of his success or failure as a real leader of his men, the college has planned a special broadly educational course that will supplement the technical training provided in the plant and equip carefully selected young men for the responsibilities they are expected some day to assume.

Prospective students are to be selected with great care by the company executives and the college authorities. They must be high school graduates, but evidence of latent qualities of leadership will be given greater weight than the attainment of high academic standing. The cooperative plan will be followed, with pairs of students alternating in six- or nine-week terms at the plant and at the college. Subjects to be taught during college terms include English Composition, History, Economics, Psychology, Sociology, Physiology, Physical Education, Humanities, and Public Speaking. Instruction at the college has been made available at an annual cost of only a little over $300 per student, with varying additional expenses for books, supplies and incidentals, ranging from $50 to $150 per year. The college describes this new course of study as follows:

> Briefly, the courses are designed to equip young men with a grasp of management's responsibilities, a broad understanding of human nature and of the numerous factors entering into the human side of production. These students also receive a sound cultural training and have the further advantage of participation in wholesome campus activities to develop the personal qualities required for leadership.
>
> Eureka's new method of education is that of concentrated conference study, combined with *a cooperative plan* which supplies the working experience assuring a sound foundation for the worker's mental growth. When the worker is studying at Eureka he concentrates his attention on one subject, working in a small group exclusively, under one instructor during each nine-week study period. The Eureka student concentrates throughout the day on the one subject of his study. He learns to *use his mind* in a way that will fit him admirably for concentrating his mind on his one job when he fills that job in industry.
>
> The Cooperative plan offers the highly valuable advantage that the individual development of the student benefits greatly from his synchronized activities. The study periods, devoted to acquisition of *knowledge*, furnish a most effective balance to the work periods, devoted to the acquisition of *experience*.
>
> Concretely, the Cooperative student, by virtue of the alternation of work periods and study periods, never loses his personal touch with and interest in the practicalities of the business world; he thus escapes becoming cloistered by breathing, for too long a period, the academic atmosphere of the intangible, abstract classroom. The student has a good appetite and digestion for work and a good appetite and digestion for study. Theory and Practice support and explain each other.

Stabilizing Employment

A SMALL Middle Western textile company has worked out its problem of providing regular employment for employees although its product is highly seasonal. The president of the company describes its procedure as follows:

> Our method of stabilizing employment in this business, which is highly seasonal—all our goods passing into consumption in the fall—is to estimate the volume of goods that we think we can sell, then on December 1, which is

the beginning of our fiscal year, we start on an 11 months' program to make that many goods by the first of the next November. Except for legal holidays, Saturdays and two week's vacation period in summer the operation of plant is to run full five days a week. The yarn spinning and carding departments always run a night shift. Our employees are given full information as to our plans. In the month of November we may have to shut down a bit if orders do not prove as good as expected or we may have to run full time.

Except when running through goods in process before inventory the mill is always run full time or would be shut down completely so no question of seniority arises. Over half our help have been here more than ten years, we have never discharged a man or woman for old age, though some, of course, have quit when no longer able to work. We store our product for about 7 months. That is our method of getting steady employment for everyone, or close to it.

Our force is not large, as you will note, (150) no unions as yet, everybody happy and the personal relations unusually fine. We are not big enough to have a lot of system for handling employee problems, in fact, don't seem to have anything serious along that line. We tell our people about our business, try to treat them like human beings and do all we can for them, and I must say they are appreciative and loyal and a real pleasure to work with.

Vitamins Reduce Manufacturing Costs

The use of Vitamin "A" in the diet of inspectors who must be able to recognize slight variations in color has resulted in substantial cost reduction by the Westinghouse Electric and Manufacturing Company.

On the basis of tests carried on over a period of about two years it has been determined that assembly line rejects due to off-color parts have been reduced from an average of 1.7% to an average of 0.3%.

A reduction of more than $5000 per year has been made on electric ranges alone by reducing changes of off-color parts after assembly.

Chronology of Events Affecting Labor Relations January, 1940

January

2 *Discretionary Powers Upheld*—In three decisions the United States Supreme Court holds that such matters as orders for elections, certification of collective bargaining agencies, and the inclusion or exclusion of names of labor organizations on ballots are within the discretion of the National Labor Relations Board under the Wagner Act and are not subject to review by the courts.

Strike of Ship Clerks Ends—Strategic strike of San Francisco ship clerks, which paralyzed shipping for fifty-three days, ends with clerks returning to work on same terms that were in force when they struck. Insistent union demands for control over hiring of clerks, who are considered by shipping companies as exercising confidential and managerial functions, were unsuccessful.

3 *Peace on Atlantic Waterfront*—National Maritime Union and American Merchant Marine Institute initial new contract in New York City believed to insure peace in eastern maritime industry for duration of agreement, which expires September 30, 1941.

4 *Employers Must Provide Wage Statements*—New York Regional Director of Social Security Board notifies employers and employees that Social Security Act requires that an employer give to each employee at least once a year a form suitable for retention by the employee showing total wages paid him.

Record Job Placements—Social Security Board reports that public employment offices placed 248,934 persons in private employment during November, 1939. Although this represents a decline of 19% from October, it is higher than for any previous November in the history of the employment service.

6 *N.L.R.B. Disagrees with Former Director*—National Labor Relations Board orders an independent union disestablished in a company having a profit-sharing plan on ground that "the very structure of the plan contains the elements of employer domination and interference." Before the plan was put into effect two years ago the then National Labor Relations Board Regional Director made a speech to employees of the company praising the plan.

7 *Wage Complaints Pour In*—The Wage and Hour Administration reports that complaints of violation of the Fair Labor Standards Act are coming in at the rate of a thousand a week and that it cannot cope with such a volume of work.

Entire Industry the Proper Bargaining Unit—National Labor Relations Board rules that 202 anthracite coal operators employing 115,000 miners constitute a single appropriate unit for collective bargaining. Decision shuts out the Progressive Mine Workers of America (A.F.L.).

8 *Bridges Not to Be Deported*—Secretary of Labor cancels warrant for deportation of Australia-born

Harry Bridges, head of Pacific Coast Longshoremen's Union, and West Coast C.I.O. leader. Following hearings, Special Trial Examiner Landis ruled that the government had not established that Bridges was a Communist.

9 *Union Representation Rejected*—Employees of Endicott-Johnson Shoe Corporation vote decisively to continue existing employer-employee relations and reject representation by outside union by vote of nearly five to one. Total vote: For A.F.L. union, 1,612; for C.I.O. union, 1,079; combined vote for outside unions, 2,691; for no outside union, 12,693.

Written Pact Not Required—United States Circuit Court of Appeals in Chicago rules in case of Inland Steel Company that agreements between companies and unions need not be in written form, thereby setting aside an order of the National Labor Relations Board requiring the company to enter into a written agreement with the Steel Workers Organizing Committee. The Court stated unanimously that "the statute is barren of any express language requiring a signed agreement and it must be held that no such agreement is required unless we are authorized to read into the term 'collective bargaining' that all agreements, not some, must be reduced to writing."

Non-Union Employee Must Be Protected—On same date United States Circuit Court of Appeals in San Francisco, in voiding a National Labor Relations Board order disestablishing an independent labor organization in Sterling Electric Motors, Inc., held that "in the titanic struggle for power between international unions" the right of individual dealing was being ignored. The decision maintained that it is the duty of the National Labor Relations Board to provide equal protection to a worker whether he joins an international or an independent union, or elects not to join any union.

10 *Discharge of Sit-Downers Upheld*—In case of Reading Batteries, Inc., National Labor Relations Board rules that employer was not guilty of unfair labor practice when he refused to reinstate workers who had taken part in a sit-down strike.

12 *Apex Appeals to Supreme Court*—In April, 1939, Apex Hosiery Company was awarded a verdict of over $700,000 against the American Federation of Hosiery Workers for damages in connection with sit-down strike. In November the award was set aside by the United States Circuit Court of Appeals on ground that action of strikers did not substantially interfere with interstate commerce and that, therefore, anti-trust laws did not apply. Company now appeals case to United States Supreme Court contending that Circuit Court decision "is in plain conflict" with opinions of Supreme Court holding that stoppage of manufacturing and shipping operations of a plant by industrial strife has a direct and immediate effect upon interstate commerce.

13 *Rank and File Urged to End Labor Split*—Daniel J. Tobin, President of International Brotherhood of Teamsters, calls on rank and file union members to compel peace between A.F.L. and C.I.O., maintaining that less than a dozen men on both sides are responsible for continuing the rift.

16 *Public Opinion Favors Wagner Act Change*—Most recent Gallup poll indicates that 53% of those consulted favor revision of Wagner Act, 18% are for its repeal, and 29% believe it should be left unchanged. Thus, if poll represents public opinion, seven out of every ten persons are dissatisfied with present situation.

22 *Informer Ordered Rehired*—United States District Court orders a Chicago employer to rehire a man allegedly discharged because he complained to the Wage-Hour Administration that his employer was violating the Fair Labor Standards Act.

23 *Union Officials Indicted*—International Longshoremen's Association and its officers are indicted by federal grand jury in New York City on charge of violating Sherman Anti-Trust Act. They are accused of having tried to force certain retail lumber dealers to coerce their employees to leave a C.I.O. union of which they were members and join defendant union, which is affiliated with the A.F.L.

24 *Cannot Refuse Employment Because of Union Membership*—National Labor Relations Board orders employment of two men and the reimbursement of the pay they would have received since July, 1937, from Waumbec Mills, Inc. because, it is alleged, they were refused employment at that time on account of being active union members. This order runs counter to recent decision of Circuit Court in New York, which held that Wagner Act does not affect conditions prior to employment.

25 *Electrical Workers Form Own Union*—Employees of Consolidated Edison Company of New York, said to number around 16,000, resign from company locals affiliated with A.F.L.'s Local 3 of International Brotherhood of Electrical Workers, and form their own independent union. Dissatisfaction with A.F.L. union's treatment of company employees in work allotments given as reason for dissolving affiliation with international union.